REMARKS

In the Office Action dated October 4, 2005, the Examiner rejected claims 1, 2, and 6 under 35 U.S.C. §102(e) as being anticipated by *Gregorat* (U.S. Pat. No. 6,327,243). Further, the Examiner rejected claim 3 under 35 U.S.C. §103(a) as being unpatentable over *Gregorat* in view of *Eng et al.* (U.S. Pat. No. 6,810,008). Claims 4 and 5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Gregorat* in view of *Bartfai et al.* (U.S. Pat. No. 6,012,150). The Examiner further rejected claims 7, 12, 15, and 22 under 35 U.S.C. §103(a) as being unpatentable over *Gregorat* in view of *Baskey et al.* (U.S. Pat. No. 6,148,410). Claim 8 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Gregorat* in view of *Popovich* (U.S. Pat. No. 6,771,593). Claims 9 and 10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Gregorat* and *Popovich* further in view of *Thomas et al.* (U.S. Pat. Pub. No. 2003/0086140). The Examiner further rejected claim 11 under 35 U.S.C. §103(a) as being unpatentable over *Gregorat* and *Popovich* further in view of *Farris et al.* (U.S. Pat. No. 6,154,445). Claims 13, 14, and 18-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Gregorat* in view of *Coile et al.* (U.S. 6,108,300) and *Baskey*. Claims 16 and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Gregorat* and *Baskey* further in view of *Bartfai* and *Thomas*. The Examiner rejected claim 21 under 35 U.S.C. §103(a) as being unpatentable over *Gregorat* and *Baskey* further in view of *Popovich* and *Farris*. The Examiner rejected claim 23 under 35 U.S.C. §103(a) as being unpatentable over *Gregorat* and *Baskey* further in view of *Bartfai*. Claims 24 and 27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Gregorat* in view of *Eng*, *Bartfai*, *Popovich*, and *Farris*. Finally, claims 25 and 26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Gregorat* in view of *Eng*, *Bartfai*, *Popovich*, and *Farris*, and further in view of *Coile* and *Baskey*. Claims 1, 4, 15, 23, and 24 have been amended. Claims 2 and 3 have been canceled.

For the reasons stated below, Applicants respectfully submit that the prior art does not disclose, teach, or even suggest the presently claimed invention.

Information Disclosure Statement

Per the Examiner's request, Applicants have included a copy of the NPL item #32 (J. Postel, 1980, "User Datagram Protocol," RFC 768: 1-3, and request consideration of the document. Applicants have included a copy of the Form PTO-1449 that included this reference for the Examiner to initial and sign.

Response to Claim Rejections

Independent claims 1, 15, and 24 provide a system and method for transferring packet-switched data across a first network to a second network. The system and method include a selection switch connected to a network interface, and a route server connected to the selection switch. The selection switch is connected to a primary switch and a secondary switch, each of which are located on a switch assembly. The route server preferably serves as a processing unit that controls, via the selection switch, where data flows within the switch assembly. The system further includes a controller connected to the primary switch, but separate from the primary switch and the secondary switch. The controller determines, through a heartbeat mechanism, whether the primary switch is operable. If the controller determines that the primary switch is operable, then the controller may direct the route server to control the selection switch to enable the packet-switched data to be transferred between the network interface and the second network across the primary switch. However, if the controller determines that the primary switch is inoperable, then the controller may direct the route server to control the selection switch to enable the packet-switched data to be

transferred between the network interface and the second network across the secondary switch.

The cited prior art, taken alone or in combination, fails to disclose or suggest a route server controlling the functioning of the selection switch, and a controller connected to the primary switch, being separate from the primary switch and the secondary switch, that determines if the primary switch is operable. Rather, the prior art merely discloses a control processor within the primary switch for monitoring the primary switch. It is unreliable for a switch to determine and report its own health. For instance, if the switch malfunctions or becomes inoperable, it may no longer be able to successfully monitor itself. Therefore, a separate controller, as disclosed in the present application, creates a more reliable system. None of the prior art references cited by the Examiner disclose this feature.

For example, *Gregorat* discloses a system and method for performing a seamless switchover from a primary packet router to a secondary packet router. A redundant switch is provided for use in a packet switched network, the redundant switch comprising a primary controller (which the Examiner interprets as the primary switch) capable of routing data packets from an input interface to an output interface, and a secondary controller (which the Examiner interprets as the secondary switch) capable of performing data packet routing tasks performed by the primary controller after a switchover event. The primary controller may switchover to the secondary controller upon the occurrence of a failure or upon a system command. The Examiner submits that control processor 210 of *Gregorat* determines if the primary controller is operable. However, *Gregorat* does not disclose a separate controller for determining if either the primary or secondary switch is operable, and, in response, a route server to control the functioning of a selection switch. The rejection is therefore improper and should be withdrawn.

Similarly, *Eng* discloses immediate rerouting in data networks upon detection of a failure of a communications link in the network, and communicating the failure in substantially real time to the routers utilized in the network. *Eng* fails to disclose a route server controlling the functioning of the selection switch, and a controller connected to the primary switch that determines if the primary switch is operable.

Moreover, *Bartfai* discloses an apparatus for synchronizing operator commands with a failover process in a distributed system having a control workstation and a plurality of nodes. One node is designated the primary node and one is designated a backup node. The backup node continuously monitors the primary node, and if the primary node fails, the backup node takes over the responsibilities of the primary node and selects a new backup node. Unlike the present claims, *Bartfai* does not disclose a controller separate from the primary node and the backup node for determining if the primary node is operable. Instead, when the primary node fails, the system of *Bartfai* simply transfers over responsibility to the backup node. In contrast, the present application discloses a separate controller for monitoring the status of the primary switch via the primary switch's own control processor.

Contrary to the Examiner's assertion, *Baskey*, *Popovich*, *Thomas*, *Farris*, and *Coile* also fail to disclose the features of the present application, specifically a route server controlling the functioning of the selection switch, and a controller connected to the primary switch that determines if the primary switch is operable. Thus, Applicants submit that the rejection of claims 1, 4-22, and 24-27 is improper and should be withdrawn.

Conclusion

In view of the foregoing, Applicants respectfully request that all of the rejections of the pending claims 1, 4-22, and 24-27 be withdrawn. Applicants hereby earnestly solicit an early Notice of Allowance. If for any reason, the application is not considered to be in condition

for allowance on the next Office Action and an interview would be helpful to resolve any remaining issues, the Examiner is requested to contact the undersigned at (312) 913-3334.

Respectfully submitted,

McDonnell Boehnen Hulbert & Berghoff LLP

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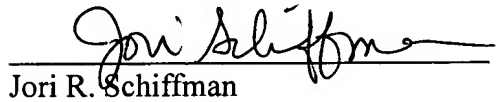
By: 

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